

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9612 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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AHMEDBHAI ABUBAKAR MEMON

Versus

MUNICIPAL CORPORATION OF BHAVNAGAR

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Appearance:

MR JT TRIVEDI for Petitioner

MR JR NANAVATI for Respondent No. 1

MR NK MAJMUDAR for Respondent No. 2

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 11/09/97

ORAL JUDGEMENT

Rule. Mr JR Nanavati learned advocate waives service for respondent no. 1 and Mr NK Majmudar learned advocate waives service for respondent no. 2. At the request of the learned advocates, this petition is finally heard today.

By way of this petition, the petitioner has

prayed directing the respondent no. 1 i.e. Municipal Corporation, Bhavnagar to issue No Objection Certificate in favour of the petitioner for obtaining electricity connection for his lorry in question and enjoining respondent-2 i.e. Gujarat Electricity Board to forthwith give electric supply on submission of No Objection Certificate to the lorry in question. There is no dispute to the fact that earlier, the petitioner has filed petition being Special Civil Application No. 3323/92 before this Court. The Division Bench ( Coram: MB Shah & RD Vyas,JJ ) on 10th August, 1992 passed the following order in the said petition:

"Mr Nanavati learned advocate appearing on behalf of the respondents, states that under the Scheme framed in 1982 on the basis of the order passed by the Court, seven to eight larrigallawalas were accommodated in the area known as Lal Dawakhana in Bhavnagar city; only persons permitted under the scheme framed in 1982 are and would be permitted under the Scheme framed in 1982 are and would be permitted to place their larrigallas in Law Dawakhana area and none else would be permitted to place larigallas. He further states that because of traffic problems at present it is not possible for the Municipal Corporation to accommodate other persons in this area. He submitted that the petitioner has placed his larigalla on the public road which causes lot of obstruction. Still however, the petitioner would be offered an alternative place for placing his larigalla near Gam Talav before removing the petitioner from Lal Dawakhana area. An alternative specific place for keeping lari would be offered to the petitioner in writing.

In view of the aforesaid statements and facts, this petition is rejected. Notice discharged. The ad interim relief stands vacated."

As can be seen from the said order, a statement was made on behalf of the respondent-corporation that the petitioner would be offered alternative place for placing his lorry near Gam Talav before removing the petitioner from Lal Dawakhana area. In pursuance to the said statement, it appears that the respondent corporation on 23.9.1993 has provided

alternative space near Ganga Jalia Talav adjacent to Ghodagadi Stand, Bhavnagar. There is no dispute to the fact that the petitioner is occupying the said place. In view of this, since the petitioner has been offered a place to carry on business by the corporation, the occupation of the petitioner on the place is authorised which is also not disputed by Mr Nanavati learned advocate for the respondent corporation. On behalf of the respondent no. 2, Mr RK Velani, Deputy Engineer filed the affidavit, in which it is inter alia mentioned that respondent-board will have no objection in granting electric connection to the petitioner provided the Municipal Corporation makes a statement before the Court that the occupation of the petitioner at the place mentioned in the petition is authorised and lawful one, this is the only requirement for the respondent no. 2. As stated hereinabove, as the petitioner has been provided a space by the corporation itself in pursuance to the statement made in the court, the occupation of the petitioner is authorised, and lawful one, which is also not disputed by Mr Nanavati learned advocate for the respondent no. 1, in my view, the petitioner is entitled for obtaining electric connection for his lorry in question.

In the result, this petition is allowed. The respondent no. 2 is directed to provide electric supply to the lorry of the petitioner within 4 weeks from today, provided the petitioner fulfills any other lawful requirements of respondent no. 2. Rule made absolute with no order as to costs. DS Permitted.

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